

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA *ex rel.*
CHINA PACIFICARBIDE, INC.,

Plaintiff-Relator,

v.

KING KONG TOOLS, LLC; *and*
KING KONG-TOOLS GMBH & CO. KG,

Defendants.

Civil Action No.
1:19-CV-5405-WMR

Filed under seal and *ex parte*

**The United States of America's
Notice of Intervention in Part**

Pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(2) and (4), the United States of America respectfully notifies this Court of its decision to intervene in part in this action, consistent with a settlement agreement between the United States; China Pacificarbide, Inc. (the "Relator"); and the Defendants King Kong Tools, LLC, and King Kong-Tools GmbH & Co., KG (collectively, "King Kong").

Specifically, the United States intervenes as to claims asserted in this action against King Kong that are based on the "Covered Conduct," as defined in the settlement agreement. That agreement provides as follows:

The United States contends that it has certain civil claims against King Kong Tools, LLC, and KingKong-Tools GmbH & Co KG arising from the following:

- a. Between August 1, 2018 and January 17, 2023, King Kong Tools, LLC, and KingKong-Tools GmbH & Co KG knowingly made, used, or caused to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly concealed or knowingly and improperly avoided or decreased an obligation to pay or transmit money or property to the Government by falsely representing certain goods as being of German origin when they were of Chinese origin. This conduct includes the goods covered by the entries made by or on behalf of King Kong between March 2021 and December 2022 on the attached schedule.
- b. Between August 1, 2018 and January 17, 2023, King Kong Tools, LLC, and KingKong-Tools GmbH & Co KG conspired to perform the acts described in Subparagraph (a), directly above.

The conduct described in this Paragraph is referred to below as the “Covered Conduct.”

The United States declines to intervene in any remaining allegations asserted by the Relator in this action on behalf of the United States.

This case is currently under seal. Now that the United States has made its intervention decision, the seal is no longer necessary and should be lifted as to any future filings. The government’s previously filed extension motions should

remain under seal because those discuss the government's investigation. *See* 31 U.S.C. § 3730(b)(3) (extension requests are made "in camera"). The government made eight extension requests in this case. These docket entries should remain under seal, but the remaining filings can be made public.

After intervening, the United States intends to dismiss with prejudice all claims on which it intervened and to dismiss without prejudice all remaining claims in this case. That dismissal notice will be filed directly after this intervention notice. (Although the Relator had some additional claims, the United States understands that those will be dismissed as well. As a result, all claims will be resolved.)

A proposed order accompanies this filing. The proposed order (1) acknowledges the government's intervention decision, (2) dismisses the various claims with or without prejudice, as outlined above, and (3) unseals the docket (except for the extension motions).

Respectfully submitted,

RYAN K. BUCHANAN
United States Attorney

s/ Anthony C. DeCinque

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Certificate of Service

I hereby certify that the United States of **America's notice of intervention in part** along with a **proposed order** were served by email under Fed. R. Civ. P.

5(b)(2)(E), addressed to:

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None of these documents have been served on the Defendants because this case remains under seal.

This 27th day of November, 2023.

s/ Anthony C. DeCinque
ANTHONY C. DECINQUE
Assistant United States Attorney